

VINCENT ROSENBALM

4/28/2008

2100 NAPA VALLEJO HIGHWAY Unit 5

NAPA, CALIFORNIA 94558

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PEOPLE OF THE UNITED

States of America

CV

08

2318

V

CRIMINAL COMPLAINT

JUDGE SUSAN ILLSTON

COMPLAINT

U.S. DISTRICT COURT

450 GOLDENGATE AVENUE

SAN FRANCISCO, CALIFORNIA 94102

1) I, THE UNDERSIGNED COMPLAINANT STATE THAT

THE FOLLOWING IS TRUE AND CORRECT TO THE

BEST OF MY KNOWLEDGE. ON OR ABOUT APRIL 3,

2008 IN SAN FRANCISCO COUNTY IN THE NORT-

HERN DISTRICT OF CALIFORNIA THE DEFENDANT

(S) DID COMMIT PERJURY IN VIOLATION OF

TITLE 18 UNITED STATES CODE(S) 1621. I

FURTHER STATE THIS COMPLAINT IS

BASED ON A INTERLOCUTORY ORDER BY

JUDGE ILLSTON AND A PREJUDICIAL ERROR.

I ASK THE COURT FOR A SUMMARY

JUDGMENT OF \$5 MILLION DOLLARS

FOR DAMAGES AND RELEASE FROM

ILLEGAL CUSTODY. SEE ATTACHMENTS

Vincent Rosenbalm

28 U.S.C. sec 1292 (a)(1) court of appeals shall have jurisdiction of appeals from interlocutory orders of district courts of the United States

7) A person can challenge interlocutory orders under the "collateral order" doctrine of *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541, 69 S.Ct. 1221, 93 L.Ed. 1528 (1949), if the denial conclusively determines the disputed question, and it involves a claim of rights separable from, and collateral to, rights asserted in the action. (See *Mitchell v. Forsyth*, (1985) 472 U.S. 511, 105 S.Ct. 2806, 2815-2817.) (See also *Henneberque v. City of Culver City* (1985) 172 Cal.App.3d 837, 842; *Lyon v. Goss* (1942) 19 Cal.2d 659, 670 [123 P.2d 11]; accord, *UAP-Columbus JV 326132 v. Nesbitt* (1991) 234 Cal.App.3d 1028, 1034-1036 [285 Cal.Rptr. 856].)

8) There are other exceptions to the final judgment rule, and "the test must be the existence of unusual circumstances in which postponement of the appeal until the final judgment as to all causes of action would cause serious hardship and inconvenience." (*Freeman on Judgments, fifth ed.*, § 45.) (See *Western Electroplating Co. v. Henness* (1959) 172 Cal.App.2d 278, 283.)

9) In an appropriate case an appellate Court has the inherent discretion to treat a barred appeal as a petition for writ of habeas corpus, and thereby prevent a fundamental miscarriage of justice. In an extreme case such as mine, where the conviction cannot withstand scrutiny in any procedural context, I believe the courts should hesitate to apply technical rules to prevent such a defendant from obtaining relief. (See *In re Scruggs* (1971) 15 Cal.App.3d 290, 294.) (Cal. Const., art. VI, § 13.)

USA  
v  
ILLSTON  
CHAMBERS

## CONCLUSION

2) The action is dismissed without prejudice to Rosenbalm filing a new petition for writ of habeas corpus after he exhausts state court remedies as to his federal constitutional claims regarding the commitment order. All other challenges to the criminal proceedings must wait until Rosenbalm is convicted; he may not challenge the state court criminal proceedings against him until he is convicted and then must exhaust state court remedies before filing a federal petition for writ of habeas corpus. This dismissal also is without prejudice to Rosenbalm challenging the conditions of confinement at the county jail and at Napa State Hospital in a civil rights action.

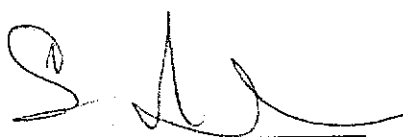
3) Respondent's motion to file medical records under seal is GRANTED. (Docket # 52.)

4) In light of the dismissal of this action, the court DENIES as moot Rosenbalm's motions for a mediator, for injunctive relief, for a temporary restraining order, for an in camera hearing, for summary judgment, and for appointment of counsel. (Docket #s 30, 39, 44, 46, 50, 54, 55, 62, 77, and 81.)

5) The clerk shall close the file.

6) IT IS SO ORDERED.

DATED: April 3, 2008

  
SUSAN ILLSTON  
United States District Judge

PROOF OF service

4/29/2008

I am Vincent Rosenbalm a  
United States citizen over 18  
years of age

ON 4/30/2008 I served the within

- 1) 2 CRIMINAL COMPLAINT 6 copies
- 2) 3 ATTACHMENTS 9 copies
- 3) TRUST INFO 2 copies

By placing in sealed envelope in  
the Napa State Hospital Mail!

Addressed COURT CLERK

U.S. DISTRICT COURT

450 GOLDEN GATE AVE

SAN FRANCISCO, CA 94102

FROM

Vincent Rosenbalm

2000 Napa Valley Highway Units

Napa, CA 94558

Under the Penalty of Perjury  
this is true and correct to  
the best of my knowledge.

Vincent Rosenbalm

VINCENT ROSENBAUM  
100 NAPA VALLEJO HIGHWAY units  
NAPA, CA 94558

RECEIVED

MAY 1 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

*RP*

LEGAL MAIL

COURT CLERK

U.S. DISTRICT COURT

450 GOLDEN GATE AVE

SAN FRANCISCO, CA 94102

